

Notice of Allowability	Application No.	Applicant(s)	
	10/519,087	NAKAMURA ET AL.	
	Examiner Stephen F. Gerrity	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to the telephone interview of 2/2/07.
2. The allowed claim(s) is/are 1-3 and 5-7.
3. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application
6. Interview Summary (PTO-413),
Paper No./Mail Date 20070203.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Brad Cangro (applicant's representative - registration no. 58478) on 2 February 2007.

The application has been amended as follows:

In the claims:

The following listing of claims replaces all previous listing of claims:

1. (Currently amended) A method for manufacturing an aspherical seamless capsule comprising:
 - a first step for providing a seamless capsule having a filler encapsulated with a shell membrane;
 - a second step for drying said seamless capsule provided in said first step until a predetermined percentage content of solvent in said shell membrane reaches a predetermined value;
 - a third step for heating said seamless capsule obtained in said second step so that said shell material may get to a semi-sol state; and
 - a fourth step for forming said seamless capsule obtained in said third step

into a predetermined aspherical shape in a compression molding process using dies.

2. (Original) A method for manufacturing an aspherical seamless capsule according to Claim 1, wherein said shell membrane is a material containing water as a solvent, and said shell membrane of said seamless capsule obtained in said second step has a solvent content of 20% by weight or less.

3. (Original) A method for manufacturing an aspherical seamless capsule according to Claim 1 or 2, wherein the heating in said third step uses microwave.

4. (Canceled).

5. (Original) A method for manufacturing an aspherical seamless capsule according to Claim 1 or 2, wherein said forming in said fourth step is carried out while cooling said seamless capsule.

6. (Currently Amended): An apparatus for manufacturing an aspherical seamless capsule comprising:

a heating part for heating a spherical seamless capsule having a filler encapsulated with a shell membrane; and

a forming part compression molding machine that uses dies for forming said seamless capsule into an aspherical shape, while said shell membrane of said

seamless capsule heated by said heating part is in a semi-sol state.

7. (Original): An apparatus for manufacturing an aspherical seamless capsule according to Claim 6, wherein said heating part is a heater using microwave.

8. (Canceled).

Explanation for Examiner's Amendment

3. Claims 1 and 6 have been amended, respectively, to incorporate the subject matter of claims 4 and 8.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance.

The subject matter of original claims 4 and 8 was rejected under 35 USC 103 as being obvious (see previous action mailed 4 January 2007) as it was the examiner's position by way of Official Notice that it is old and well known in the relevant art to use a compression molding process using dies to shape capsules in a batch manner. After the examiner was contacted by applicant's representative, a search was conducted in order to produce documentary evidence by way of a reference in support of the examiner's position as per MPEP 2144.03 - C. The examiner was unable to find such documentary evidence by way of a reference and accordingly the examiner's holding of Official Notice has been withdrawn.

The combination of steps set forth in claim 1 is not found or suggested by the prior art, in particular the fourth step for forming said seamless capsule obtained in said third step into a predetermined aspherical shape in a compression molding process using dies.

The combination of elements set forth in claim 6 is not found or suggested by the prior art, in particular the compression molding machine that uses dies for forming a seamless capsule into an aspherical shape, while the shell membrane of the seamless capsule heated by the heating part is in a semi-sol state. Specifically, the examiner is not stating that the apparatus claim 6 is allowable because of the recitations in the claim that the "work piece" is a seamless capsule or that the shell membrane of the seamless capsule heated by the heating part is in a semi-sol state, as those recitations are

functional. Rather the limitation in the claim that the compression molding machine has dies having a structure/~~shape~~ for forming the capsule into an aspherical shape is the basis for allowance of the combination of elements in claim 6. A review of the prior art, see Mamoru JP 2000-325431 which discloses that aspherical forming has been done by passing a capsule through a forming tube and there is no compression molding machine with dies, or see Howden GB 2088273 which discloses that aspherical forming has been done with compression molding machines including dies for eyeglass lenses, but the dies are not shaped for forming capsules into an aspherical shape.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Drawings

5. The replacement drawings showing figures 6A and 6B were received on 2 February 2007. These drawings are acceptable to the examiner.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Gerrity whose telephone number is 571-272-4460. The examiner can normally be reached on Monday - Friday from 5:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stephen F. Gerrity
Stephen F. Gerrity
Primary Examiner
Art Unit 3721

3 February 2007